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Division of Agricultural Conservation & Technical Assistance

## **Agricultural Environmental Enhancement Program**

**Fiscal Year 2014**  
*(July 1, 2013 to June 30, 2014)*

Request for Response (RFR): RFR File: AEEP-14

For the implementation of  
agricultural conservation practices that  
improve water quality, conserve water,  
or improve air quality

**Responses must be date stamped or hand delivered by  
4:00 PM on April 30, 2013.**

**Contact: Laura J. Maul  
Telephone: 617-626-1739  
Email: [laura.maul@state.ma.us](mailto:laura.maul@state.ma.us)**



**Massachusetts Department of Agricultural Resources  
251 Causeway Street, Suite 500  
Boston, MA 02114**

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**REQUEST FOR RESPONSE**  
**RFR File Name/Title: Agricultural Environmental Enhancement Program**

This request for a response contains three (3) sections. Section I is a description of the program. Section II is the program response form. Section III contains more detailed information about the RFR specifications and requirements, including funding allocations.

**Section I: Description of AEEP Program**

**1. Purpose**

The Massachusetts Department of Agricultural Resources ("Agricultural Resources" or "Department") invites Massachusetts agricultural operations to submit proposals for funding to implement conservation practices through the Agricultural Environmental Enhancement Program (AEEP). The purpose of AEEP is to support the mitigation and/ or prevention of negative impacts to the Commonwealth's natural resources that may result from agricultural practices. By providing reimbursement directly to agricultural operations that implement eligible projects that prevent, reduce or eliminate environmental impacts, the program achieves its purpose and goals of minimizing environmental impacts from these operations for the benefit of the public.

AEEP is a competitive reimbursement grant program that funds practices that prevent direct impacts on water quality, ensure efficient use of water, and address agricultural impacts on air quality. All projects where the primary focus is renewable energy or energy conservation would need to apply to the Massachusetts Ag-Energy Grant Program.

Reimbursement of up to \$25,000 will be awarded on a competitive basis depending on need. Persons submitting successful proposals will be required to sign a contract with Agricultural Resources. All projects must be completed by June 30, 2014, subject to Department funding sources. Satisfactory receipts for costs of approved practices must be submitted to Agricultural Resources and approved prior to any reimbursement. **NOTE: All funding is subject to appropriation.**

**2. Eligible Proposals**

<b>Water Quality</b>	<ul style="list-style-type: none"><li>Water quality projects prevent agricultural impacts on water quality or improve water quality for associated agricultural or aquacultural activities. Eligible projects include but are not limited to; above ground treatment for ag wastewater, fencing to keep animals out of a water resource, oil tank containment, pesticide mixing, loading and storage practices, agricultural waste management practices, composting materials, and dredging or water structure improvements where such improvements can demonstrate improvements to water quality.</li></ul>
<b>Water Conservation</b>	<ul style="list-style-type: none"><li>Water Conservation Projects reduce the use of surface water and groundwater resources. Eligible projects include, but are not limited to; drip irrigation (not disposable drip tape), automated irrigation systems, ebb and flow bench systems, and water re-use projects.</li></ul>
<b>Air Quality</b>	<ul style="list-style-type: none"><li>Air Quality projects reduce odor and airborne particulates (dust, pesticides, chemicals, ammonia, nitrates), and greenhouse gases from agricultural operations. Eligible projects include, but are not limited to, efficient pumps meeting current EPA Tier standards, and odor control projects.</li></ul>

### 3. Project Proposal Eligibility Criteria and Requirements

Criteria	Minimum Requirement
<b>Eligible Applicants</b>	<ul style="list-style-type: none"> <li>Farmers/growers/ aquaculturists as identified by Massachusetts General Laws engaged in production agriculture for commercial purposes (eg. M.G.L. c.128. sec.1A; M.G.L. c. 130. sec.57; M.G.L. c. 131 sec.23); or</li> <li>Licensed stables and commercial horse operations as defined in M.G.L. c.128 sec.1A. and that have a current license with the Department according to 330 CMR 16:00; or</li> <li>Eligible shellfish growers must possess a current valid shellfish aquaculture license.</li> </ul>
<b>Size of Operation</b>	<ul style="list-style-type: none"> <li>There is no minimum acreage requirement; however, projects that address significant resource concerns are more likely to receive funding.</li> </ul>
<b>Conservation Plan/ Manure Management Plan</b>	<ul style="list-style-type: none"> <li>Where applicable, applicants must have proof of a written and updated (within the last five years) Natural Resources Conservation Service (NRCS) Conservation Plan.</li> <li>Eligible horse operations must have either a NRCS conservation plan or a manure management plan in writing available for review.</li> </ul>
<b>Locator Maps</b>	<ul style="list-style-type: none"> <li>Applicants must enclose a map with the property boundaries drawn and the exact location of the project described in this application. Applicants are recommended to contact their local NRCS office for assistance in generating appropriate maps.</li> <li>Applications that do not include a locator map will be ranked lower.</li> </ul>
<b>Permits</b>	<ul style="list-style-type: none"> <li>Proposals which are favorably reviewed must receive all required permits, licenses, and any other federal, state, or local approvals necessary for the project prior to contract being awarded.</li> </ul>
<b>Previously Funded Applicants</b>	
<ul style="list-style-type: none"> <li>Applications from applicants that have been previously funded by the Department for AEEP will be considered a lower priority for funding.</li> </ul>	
<b>Ineligible Proposals</b>	
<ul style="list-style-type: none"> <li>Proposals from applicants who are out of compliance with any federal, state or local laws or regulations.</li> <li>Proposals from applicants that are not engaged in commercial agriculture.</li> <li>Proposals from applicants failing to meet requirements for previous Department Standard Contracts and/ or assistance programs or from individuals or groups with poor past contract performance as determined by the Department.</li> <li>Requests for audits, feasibility studies, deer or predator fencing, manure agitator pumps, liquid manure flow meters, flotation tires and vehicles. The Department retains the right to determine other ineligible proposals on a case by case basis.</li> <li>Purchase of equipment is not eligible unless the use of that equipment can be shown to have direct environmental benefits. Purchase of equipment for which the applicant seeks reimbursement must be approved by the Department prior to purchase.</li> <li>Proposals where the primary focus is renewable energy or energy conservation. Proposals of this type should apply to Ag-Energy Grant Program.</li> </ul>	

#### 4. Project Proposal Details

<p><b>Maximum Reimbursement</b></p>	<ul style="list-style-type: none"> <li>Each applicant must submit a proposal and budget requesting no more than \$25,000 in AEEP grant funding. If grant funding is available the Department may increase the maximum threshold at its discretion. Applicants are required to contribute at least 15% of the total costs of the project.</li> <li><b>Any incurred project costs that occur prior to an executed contract are NOT eligible for reimbursement.</b></li> <li><b>Funding is subject to appropriation.</b></li> </ul>
<p><b>Proposals Subject to Limited Funding</b></p>	<ul style="list-style-type: none"> <li>Proposals for irrigation engines coupled to pumps are eligible for \$5,000 in funding <i>per applicant respectively</i>.</li> <li>Projects for automated irrigation systems are eligible for \$7,500 in funding <i>per applicant</i>.</li> </ul>
<p><b>Field Visits</b></p>	<ul style="list-style-type: none"> <li>All projects which are favorably reviewed in the initial evaluation process will require a field visit prior to funding being awarded. A field visit does not guarantee funding for a proposed project. The purposes of the field visit are as follows: <ul style="list-style-type: none"> <li>To verify the information that is presented in the proposal;</li> <li>View the agricultural operation and assess the resource to be addressed;</li> <li>Verify that the operation is engaged in commercial agriculture;</li> <li>Determine the appropriateness of the practice proposed for the farm;</li> <li>Confirm the ability to implement and maintain the practice;</li> <li>To explore other items deemed necessary, and</li> <li>Develop a basis for future “before and after” comparisons.</li> </ul> </li> <li>Agricultural Resources staff may alter or add to the scope of the proposed project to more effectively achieve environmental goals.</li> <li>The funded contractual activity will be evaluated prior to full reimbursement. Work will be evaluated for satisfactory completion and compliance to standards. Spot inspections may be conducted at the Department’s discretion on all work for the life of the project. Only work that satisfies the terms and conditions of this RFR, contract, and any other instructions by the Department shall be eligible for reimbursement.</li> </ul>
<p><b>Construction Standards</b></p>	<ul style="list-style-type: none"> <li>AEEP funded projects must use USDA-NRCS Standards and Specifications or manufacturer’s guidelines for installation standards. Applicants may use the Department’s guidelines when installing pesticide mixing, loading and storage facilities available from <a href="http://www.mass.gov/agr/pesticides/waste/publications/mixload_medlarge.pdf">www.mass.gov/agr/pesticides/waste/publications/mixload_medlarge.pdf</a></li> </ul>
<p><b>Priority Areas for Funding</b></p>	<ul style="list-style-type: none"> <li>Oil containment and/or control</li> <li>Agriculture wastewater treatment</li> <li>Pesticide mixing &amp; storage</li> </ul>

## 5. Criteria for Evaluation

Responses are evaluated based upon criteria which are ranked in importance by awarding points, including review of the following:

- Farms located within drinking water protection zones or which overlie an aquifer.
- The presence or threat of direct discharges of pollutants into surface water bodies or wetlands. Water bodies that are listed in Category 5 of DEP's Proposed 2012 Integrated List of Waters will receive enhanced ranking. The list is available (at time of writing) at DEP's website: <http://www.mass.gov/dep/water/resources/tmdls.htm>
- Demonstration of increased efficiencies for water conservation projects. Water conservation proposals should list estimated water savings over current use.
- Demonstration in the reduction of pollution emissions.
- Confirmation that there is a need for the activity.
- Applicants who have been farming for less than five years receive additional points in the ranking.
- Proposals that address more than one resource area of concern.
- Farms with an agricultural restriction under the Department's Agricultural Preservation Restriction (APR) Program.
- Applicants who have not been awarded AEEP funds in the past will receive additional points in the ranking.
- Applicants that include supporting documentation in the form of maps and quotes from vendors or contractors will receive additional points in the ranking.
- Projects that show a clearly thought out timeframe for implementation and the ability to complete the project on or before June 30, 2014.
- Extent to which the responsive proposal justifies the proposed project in the context of environmental benefits.
- All project priorities and preferences stated herein.

### *For Aquaculturists*

- Extent to which the response addresses the installation, implementation or incorporation of any of the following:
  - "Best Management Practices for Finfish Aquaculture" available online at [http://www.umass.edu/aquaculture/projects/best\\_management\\_practices.htm](http://www.umass.edu/aquaculture/projects/best_management_practices.htm)
  - "Best Management Practices for the Shellfish Culture Industry in Southeastern Massachusetts" available online at [http://www.mass.gov/agr/aquaculture/docs/Shellfish\\_BMPs\\_v09-04a.pdf](http://www.mass.gov/agr/aquaculture/docs/Shellfish_BMPs_v09-04a.pdf)
  - NRCS conservation practice standard Shellfish Aquaculture Management (code 706).

## 6. Instructions for Submission of Responses

A proposal form is attached and must be completed and mailed/delivered to Agricultural Resources by the response date deadline. Applications that are sent by fax or electronically will NOT be accepted.

Applications must have US Postal Service date stamp no later than **April 30<sup>th</sup>, 2013** or may be hand delivered by **4:00 PM on April 30<sup>th</sup>, 2013**. All materials must be sent to the attention of:

**Laura J. Maul**  
**Program Coordinator**  
**Department of Agricultural Resources, Suite 500**  
**251 Causeway Street, Boston, MA 02114**

- Agricultural Resources cannot guarantee that any particular grant will be awarded under this Response. Any potential Contract with a successful responder will be subject to the availability of funds consistent with the terms of a Response, any rules or decisions of Agricultural Resources, and all relevant laws and regulations.
- All funding is subject to appropriation.

**Official Use Only**

Date Received: \_\_\_\_\_

Received By: \_\_\_\_\_

**Section II****AGRICULTURAL ENVIRONMENTAL ENHANCEMENT PROGRAM RESPONSE FORM (Fiscal Year 2014)**

All of the information on this application must be completed or identified as Not Applicable.

**1. Agricultural Operation Information:**

Applicant Name: \_\_\_\_\_

Owner: \_\_\_\_\_  
(if different)

Operation Name: \_\_\_\_\_

Legal Structure : \_\_\_\_\_  
(e.g. Trust, LLC)

Farm Location: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ County: \_\_\_\_\_

Home Telephone: \_\_\_\_\_

Mobile Phone: \_\_\_\_\_

Email: \_\_\_\_\_

How did you hear about this program?

☐ Website☐ Workshop☐ Word of Mouth☐ I Am a Previous Applicant☐ Other: \_\_\_\_\_**2. Mailing Address for Farm (if different from above):**

Address: \_\_\_\_\_

Municipality: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

**3. Eligibility (Check boxes where applicable):**

- I am a farmer /grower / shellfish grower as identified in Massachusetts General Laws Chapter 128. sec.1A; Chapter. 130. sec. 57; and Chapter 131. sec. 23. ☐
- I am a horse operation as identified in Massachusetts General Law Chapter 128. sec.1A. ☐

- My operation has a written and updated natural resources conservation plan from NRCS (within five years) for the land where the practice is proposed. Greenhouse operators, flower growers and shellfish growers are excluded from this requirement. Horse operations must have either a NRCS conservation plan or a written manure management plan. State the year the plan was created and your NRCS contact:  
  
Year: \_\_\_\_\_ NRCS Contact Person: \_\_\_\_\_ ☐

- I am a shellfish grower and posses a current shellfish aquaculture license from the Massachusetts Division of Marine Fisheries:  
License Number: \_\_\_\_\_ Year \_\_\_\_\_ ☐

- I am a licensed stable and posses a current license from the Department of Agricultural Resources:  
License Number: \_\_\_\_\_ Year \_\_\_\_\_ ☐

**4. Agricultural Operation Details:**

Type of Operation: \_\_\_\_\_

Acreage Owned: \_\_\_\_\_ Acreage in Production: \_\_\_\_\_ Cropland Rented/Lease: \_\_\_\_\_ If applying for Auto Irrigation System – please indicate acreage to be automated by system(s): \_\_\_\_\_

Crops Grown and Acreage: \_\_\_\_\_

Livestock Type

Number of Livestock

Do you have a  
Nutrient  
Management Plan?

☐ Yes  
☐ No

If yes, when was it developed and by whom?

Density per square foot (*Shellfish Only*): \_\_\_\_\_

Are you a new entry farmer?  
(*farming for 5 years or less*)

☐ Yes  
☐ No

Do you rent or lease  
the land where this  
project takes place?

Do you have a lease in writing for the  
land where this project takes place?

When does the  
lease end?

Who will own the  
materials purchased  
using AEEP funds?

**5. Participation in Agricultural Resources Programs:**

My farm has an Agricultural Preservation Restriction (APR). If yes, list name of farm and the year the restriction was recorded:

a. Year Restriction Recorded: \_\_\_\_\_ Farm Name (*on the restriction*): \_\_\_\_\_

☐ Yes  
☐ No

Does your response require a Certificate of Approval from the APR program? ☐ Yes ☐ No

b. My farm has been accepted into or completed the Farm Viability Enhancement Program, or the APR Improvement Program. If yes, check the program and list the year accepted:

☐ Yes  
☐ No

☐ Farm Viability ☐ APR Improvement ☐ MEGA ☐ Ag-Energy Year: \_\_\_\_\_

c. I have previously received AEEP funds. If yes, list the practice funded and year funds were received

Year Funds Received: \_\_\_\_\_ Practice Funded: \_\_\_\_\_

☐ Yes  
☐ No



6. Project Details:			
Issue(s) of Concern:	Water Quality <input type="checkbox"/>	Water Conservation <input type="checkbox"/>	Air Quality <input type="checkbox"/>
<p><b>Project Type</b> (for example: Trickle Irrigation; Compost Pad; Manure Storage Pad; Automated Irrigation System):</p> <hr/>			
<p><b>Provide details on how your proposed project will help improve impacts on the area(s) of concern identified above.</b> Include the names of any resource, and the locations on your operation that are of concern. If water quality is the area of concern, specify if impacts on a public drinking water supply are being addressed through the proposed project. Water conservation proposals should list the estimated water savings over current use. Include information about how your operation is currently addressing the concern. In addition, include a timeline for implementation of this project should your project be selected.</p>			

**7. Budget:**

AEEP may reimburse applicants for the costs of a project up to a maximum of 85%, with a 15% minimum contribution towards the project coming from the applicant. The Department has the option to negotiate the budget before entering into a contract with the applicant. Preliminary budgets for evaluation purposes are acceptable. However, before any contract is executed applicants must receive quotes from vendors or contractors, where possible. The Department will decide if an applicant has adequately addressed this requirement. *Applicants who provide budgets from a vendor or contractor with their application will receive a higher evaluation.*

**If this proposal is associated with a NRCS funded EQIP project, identify your NRCS contact:**

\_\_\_\_\_

Project (Example: fencing)	Materials Needed to Complete the Project (Example: high tensile fencing)	Cost per unit (Example: \$3.00/ft)	Number of Units (Example: 4000ft)	Total Cost of Materials (Example: \$12,000.00)
		\$		\$
		\$		\$
		\$		\$
		\$		\$
Total Cost of Materials:			Box A =	\$

Project	Labor Needed to Complete the Project	Cost	Total Cost of Labor
		\$	\$
		\$	\$
Total Cost of Labor:		Box B =	\$

Total Project Costs (Box A + Box B):      Box C =      \$

Eligible Project Costs (Box C – 15%):      Box D =      \$

USDA Contribution for EQIP Funded Projects:      Box E =      \$

Total Unfunded Costs with EQIP (Box C – Box E):      Box F =      \$

Total Dollars Requested for Funding Through AEEP:  
(Request cannot be greater than \$25,000 or 85% of Total Project Costs)      \$ \_\_\_\_\_

**8. Attestation:**

By signing this application you attest all statements herein are accurate and true. By signing this application you also give permission for the Massachusetts Department of Agricultural Resources (MDAR) to review your NRCS Farm Plan if you have one. You also give permission to have a site visit by MDAR staff which will be necessary before a funding decision is made. All site visits will be arranged with you in advance.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Please complete and return the proposal response form and appropriate maps by the appropriate deadline as described on page 6.**

### **Section III**

#### **RFR Specifications**

##### **CONTRACT AND PERFORMANCE SPECIFICATIONS**

**1. PURPOSE OF PROCUREMENT:** The purpose of AEEP is to support the mitigation and/ or prevention of negative impacts to the Commonwealth's natural resources, including water and air, which may result from agricultural practices. By providing reimbursement directly to agricultural operations that implement eligible projects that prevent, reduce or eliminate environmental impacts, the program achieves its purpose and goals of minimizing environmental impacts from these operations for the benefit of the public.

**2. ACQUISITION METHOD:** Grants-Contracts

**3. SINGLE OR MULTIPLE CONTRACTORS FOR CONTRACT PERFORMANCE:** Multiple Contractors

**4. SINGLE OR MULTIPLE DEPARTMENTS MAY CONTRACT UNDER THIS RFR:** Single

##### **5. TOTAL ANTICIPATED DURATION OF CONTRACTS:**

Initial Contract Duration: Through June 30<sup>th</sup> 2014. Maximum obligation of \$25,000 per contract. Options to Renew: 2(two) 1 year options to renew. Options to Renew not to exceed: 1 year each. Extensions of contracts may be granted solely at the discretion of the Department and subject to funding source and regulations. Any extension must be agreed upon in writing by all parties.

##### **6. TOTAL ANTICIPATED EXPENDITURES FOR TOTAL ANTICIPATED DURATION OF CONTRACT(S):**

Estimated Value of Procurement: **Approximately \$350,000**

  x   Contracts will have a Maximum Obligation Amount.

##### **7. Procurement Calendar:**

- RFR Posted to Comm-pass: March 4, 2013
- Responses must be date stamped or hand delivered by 4:00 PM on April 30, 2013.

##### **RFR ATTACHMENTS TO BE COMPLETED IF PROJECT IS SELECTED FOR CONTRACT DEVELOPMENT**

The submitters of applications/responsive proposals that have been selected for contract development will be required to complete, execute and return some or all of the following documents: (Forms are available via the State Internet site <http://www.comm-pass.com>)

**1. Commonwealth Terms and Conditions:** If the Commonwealth Terms and Conditions has been executed and filed as a result of a previous contract with the Commonwealth of Massachusetts, vendors selected for contract development will be required to indicate this in your Response. The Commonwealth Terms and Conditions shall be incorporated by reference into any Contract for Commodities and Services executed pursuant to this RFR. A Bidder is required to execute the Commonwealth Terms and Conditions only once.

**2. Contractor Authorized Signatory Listing.**

**3. Verification of Taxation Reporting Information (W-9) Form.**

**4. Commonwealth Standard Contract.**

**5. Electronic Funds Transfer Form (EFT).**

In general, most of the required contractual stipulations are referenced in the Standard Contract Form and the Commonwealth Terms and Conditions (either version). However, the following RFR provisions must appear in all Commonwealth competitive procurements conducted under 801 CMR 21.00:

##### **RFR - REQUIRED SPECIFICATIONS**

**Issue Date:** November 1, 2005

**Refresh Date:** February 2, 2012

In general, most of the required contractual stipulations are referenced in the *Standard Contract Form and Instructions* and the *Commonwealth Terms and Conditions* (either version). However, the following RFR provisions must appear in all Commonwealth competitive procurements conducted under 801 CMR 21.00:

The terms of 801 CMR 21.00: *Procurement of Commodities and Services* (and 808 CMR 1.00: *Compliance, Reporting and Auditing*

for Human and Social Services, if applicable) are incorporated by reference into this RFR. Words used in this RFR shall have the meanings defined in 801 CMR 21.00 (and 808 CMR 1.00, if applicable). Additional definitions may also be identified in this RFR. Unless otherwise specified in this RFR, all communications, responses, and documentation must be in English, all measurements must be provided in feet, inches, and pounds and all cost proposals or figures in U.S. currency. All responses must be submitted in accordance with the specific terms of this RFR.

Items with the text, "*Required for POS Only*" specify a requirement for Purchase of Service (POS) human and social services procured under 801 CMR 21.00, *Procurement of Commodities or Services, Including Human and Social Services* and 808 CMR 1.00, *Compliance, Reporting and Auditing for Human and Social Service*.

Supplier Diversity Program (SDP). Massachusetts Executive Order 524 established a policy to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs) that resulted in the Supplier Diversity Program in Public Contracting. M/WBEs are strongly encouraged to submit responses to this RFR, either as prime vendors, joint venture partners or other type of business partnerships. All bidders must follow the requirements set forth in the SDP section of the RFR, which will detail the specific requirements relating to the prime vendor's inclusion of M/WBEs. Bidders are required to develop creative initiatives to help foster new business relationships with M/WBEs within the primary industries affected by this RFR. In order to satisfy the compliance of this section and encourage bidder's participation of SDP objectives, the Supplier Diversity Program (SDP) Plan for large procurements greater than \$150,000 will be evaluated at 10% or more of the total evaluation. Once an SDP Plan is submitted, negotiated and approved, the agency will then monitor the contractor's performance, and use actual expenditures with SDO certified contractors to fulfill their own SDP expenditure benchmarks. M/WBE participation must be incorporated into and monitored for all types of procurements regardless of size; however, submission of an SDP Plan is mandated only for large procurements over \$150,000.

This RFR will contain some or all of the following components as part of the Supplier Diversity Program Plan submitted by bidders:

- Sub-contracting with certified M/WBE firms as defined within the scope of the RFR,
- Ancillary use of certified M/WBE firms,
- Growth and Development activities to increase M/WBE capacity,

All certified businesses that are included in the bidder's SDP proposal are required to submit an up to date copy of their certification letter. For further information on SDO certification, contact the Supplier Diversity Office at (617) 502-8831 or via the Internet at [www.mass.gov/sdo](http://www.mass.gov/sdo). Other resources are available to M/WBE firms that may qualify for SDO certification at [www.mass.gov/sdp](http://www.mass.gov/sdp).

Supplier Diversity Program Subcontracting Policies. Prior approval of the agency is required for any subcontracted service of the contract. Agencies may define required deliverables including, but not limited to, documentation necessary to verify subcontractor commitments and expenditures with Minority- or Women-Owned Business Enterprises (M/WBEs) for the purpose of monitoring and enforcing compliance of subcontracting commitments made in a bidder's Supplier Diversity Program (SDP) Plan. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors.

Agricultural Products Preference (only applicable if this is a procurement for Agricultural Products) - Chapter 123 of the Acts of 2006 directs the State Purchasing Agent to grant a preference to products of agriculture grown or produced using locally grown products. Such locally grown or produced products shall be purchased unless the price of the goods exceeds the price of products of agriculture from outside the Commonwealth by more than 10%. For purposes of this preference, products of agriculture are defined to include any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products, the raising of livestock, including horses, raising of domesticated animals, bees, fur-bearing animals and any forestry or lumbering operations.

Best Value Selection and Negotiation. The Procurement Management Team (PMT) may select the response(s) which demonstrates the best value overall, including proposed alternatives that will achieve the procurement goals of the department. The PMT and a selected bidder, or a contractor, may negotiate a change in any element of contract performance or cost identified in the original RFR or the selected bidder's or contractor's response which results in lower costs or a more cost effective or better value than was presented in the selected bidder's or contractor's original response.

Bidder Communication. Bidders are prohibited from communicating directly with any employee of the procuring department or any member of the PMT regarding this RFR except as specified in this RFR, and no other individual Commonwealth employee or representative is authorized to provide any information or respond to any question or inquiry concerning this RFR. Bidders may contact the contact person for this RFR in the event this RFR is incomplete or the bidder is having trouble obtaining any required attachments electronically through Comm-PASS.

Comm-PASS. Comm-PASS is the official system of record for all procurement information which is publicly accessible at no charge at [www.comm-pass.com](http://www.comm-pass.com). Information contained in this document and in each tab of the Solicitation, including file attachments, and information contained in the related Bidders' Forum(s), are all components of the Solicitation.

Bidders are solely responsible for obtaining all information distributed for this Solicitation via Comm-PASS, by using the free Browse and Search tools offered on each record-related tab on the main navigation bar (Solicitations and Forums). Forums support Bidder submission of written questions associated with a Solicitation and publication of official answers. All records on Comm-PASS are comprised of multiple tabs, or pages. For example, Solicitation records contain Summary, Rules, Issuer(s), Intent or Forms & Terms and Specifications, and Other Information tabs. Each tab contains data and/or file attachments provided by the Procurement Management Team. All are incorporated into the Solicitation.

It is each Bidder's responsibility to check Comm-PASS for:

- Any addenda or modifications to this Solicitation, by monitoring the "Last Change" field on the Solicitation's Summary tab, and
- Any Bidders' Forum records related to this Solicitation (see Locating a Online Bidders' Forum for information on locating these records).

The Commonwealth accepts no responsibility and will provide no accommodation to Bidders who submit a Response based on an out-of-date Solicitation or on information received from a source other than Comm-PASS.

Comm-PASS SmartBid Subscription. Bidders may elect to obtain an optional SmartBid subscription which provides value-added features, including automated email notification associated with postings and modifications to Comm-PASS records. When properly configured and managed, SmartBid provides a subscriber with:

- A secure desktop within Comm-PASS for efficient record management
- A customizable profile reflecting the subscriber's product/service areas of interest
- A customizable listing in the publicly accessible Business Directory, an online "yellow-pages" advertisement
- Full-cycle, automated email alert whenever any record of interest is posted or updated
- Access to Online Response Submission, when allowed by the Issuer, to support:
  - paperless bid drafting and submission to an encrypted lock-box prior to close date
  - electronic signature of OSD forms and terms; agreement to defer wet-ink signature until Contract award, if any
  - withdrawal of submitted bids prior to close date
  - online storage of submitted bids

Every public purchasing entity within the borders of Massachusetts may post records on Comm-PASS at no charge. Comm-PASS has the potential to become the sole site for all public entities in Massachusetts. SmartBid fees are only based on and expended for costs to operate, maintain and develop the Comm-PASS system.

Contract Expansion. If additional funds become available during the contract duration period, the department reserves the right to increase the maximum obligation to some or all contracts executed as a result of this RFR or to execute contracts with contractors not funded in the initial selection process, subject to available funding, satisfactory contract performance and service or commodity need.

Costs. Costs which are not specifically identified in the bidder's response, and accepted by a department as part of a contract, will not be compensated under any contract awarded pursuant to this RFR. The Commonwealth will not be responsible for any costs or expenses incurred by bidders responding to this RFR.

Debriefing. *☞ Required for POS Only. This is an optional specification for non-POS RFRs.* Non-successful bidders may request a debriefing from the department. Department debriefing procedures may be found in the RFR. Non-successful POS bidders aggrieved by the decision of a department must participate in a debriefing as a prerequisite to an administrative appeal.

Debriefing/Appeals: Administrative Appeals to Departments. *☞ Required for POS Only. Not applicable to non-POS bidders.* Non-successful bidders who participate in the debriefing process and remain aggrieved with the decision of the department may appeal that decision to the department head. Department appeal procedures may be found in the RFR.

Debriefing/Appeals: Administrative Appeals to OSD. *☞ Required for POS Only. Not applicable to non-POS bidders.* Non-successful bidders who participate in the department appeal process and remain aggrieved by the selection decision of the department may appeal the department decision to the Operational Services Division. The basis for an appeal to OSD is limited to the following grounds:

1. The competitive procurement conducted by the department failed to comply with applicable regulations and guidelines. These would be limited to the requirements of 801 CMR 21.00 or any successor regulations, the policies in the OSD Procurement Information Center, subsequent policies and procedures issued by OSD and the specifications of the RFR; or

2. There was a fundamental unfairness in the procurement process. The allegation of unfairness or bias is one that is easier to allege than prove, consequently, the burden of proof rests with the bidder to provide sufficient and specific evidence in support of its claim. OSD will presume that departments conducted a fair procurement absent documentation to the contrary.

Requests for an appeal must be sent to the attention of the State Purchasing Agent at Room 1017, One Ashburton Place, Boston, MA 02108 and be received within fourteen (14) calendar days of the postmark of the notice of the department head's decision on appeal. Appeal requests must specify in sufficient detail the basis for the appeal. Sufficient detail requires a description of the published policy or procedure which was applied and forms the basis for the appeal and presentation of all information that supports the claim under paragraphs 1 or 2 above. OSD reserves the right to reject appeal requests based on grounds other than those stated above or those submitted without sufficient detail on the basis for the appeal.

The decision of the State Purchasing Agent shall be rendered, in writing, setting forth the grounds for the decision within sixty (60) calendar days of receipt of the appeal request. Pending appeals to the State Purchasing Agent shall not prohibit the department from proceeding with executing contracts.

Electronic Communication/Update of Bidder's/Contractor's Contact Information. It is the responsibility of the prospective bidder and awarded contractor to keep current the email address of the bidder's contact person and prospective contract manager, if awarded a contract, and to monitor that email inbox for communications from the PMT, including requests for clarification. The PMT and the Commonwealth assume no responsibility if a prospective bidder's/awarded contractor's designated email address is not current, or if technical problems, including those with the prospective bidder's/awarded contractor's computer, network or internet service provider (ISP) cause email communications sent to/from the prospective bidder/awarded contractor and the PMT to be lost or rejected by any means including email or spam filtering.

Electronic Funds Transfer (EFT). All bidders responding to this RFR must agree to participate in the Commonwealth Electronic Funds Transfer (EFT) program for receiving payments, unless the bidder can provide compelling proof that it would be unduly burdensome. EFT is a benefit to both contractors and the Commonwealth because it ensures fast, safe and reliable payment directly to contractors and saves both parties the cost of processing checks. Contractors are able to track and verify payments made electronically through the Comptroller's Vendor Web system. A link to the EFT application can be found on the [OSD Forms](#) page ([www.mass.gov/osd](http://www.mass.gov/osd)). Additional information about EFT is available on the [VendorWeb](#) site ([www.mass.gov/osc](http://www.mass.gov/osc)). Click on MASSfinance.

Successful bidders, upon notification of contract award, will be required to enroll in EFT as a contract requirement by completing and submitting the *Authorization for Electronic Funds Payment Form* to this department for review, approval and forwarding to the Office of the Comptroller. If the bidder is already enrolled in the program, it may so indicate in its response. Because the *Authorization for Electronic Funds Payment Form* contains banking information, this form, and all information contained on this form, shall not be considered a public record and shall not be subject to public disclosure through a public records request.

The requirement to use EFT may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in its response. The PMT will consider such requests on a case-by-case basis and communicate the findings with the bidder.

Environmental Response Submission Compliance. In an effort to promote greater use of recycled and environmentally preferable products and minimize waste, all responses submitted should comply with the following guidelines:

- All copies should be printed double sided.
- All submittals and copies should be printed on recycled paper with a minimum post-consumer content of 30% or on tree-free paper (i.e. paper made from raw materials other than trees, such as kenaf). To document the use of such paper, a photocopy of the ream cover/wrapper should be included with the response.
- Unless absolutely necessary, all responses and copies should minimize or eliminate use of non-recyclable or non re-usable materials such as plastic report covers, plastic dividers, vinyl sleeves and GBC binding. Three ringed binders, glued materials, paper clips and staples are acceptable.
- **Bidders should submit materials in a format which allows for easy removal and recycling of paper materials.**
- Bidders are encouraged to use other products which contain recycled content in their response documents. Such products may include, but are not limited to, folders, binders, paper clips, diskettes, envelopes, boxes, etc. Where appropriate, bidders should note which products in their responses are made with recycled materials.
- Unnecessary samples, attachments or documents not specifically asked for should not be submitted.



Executive Order 509, Establishing Nutrition Standards for Food Purchased and Served by State Agencies. Food purchased and served by state agencies must be in compliance with Executive Order 509, issued in January 2009. Under this Executive Order, all contracts resulting from procurements posted after July 1, 2009 that involve the purchase and provision of food must comply with nutrition guidelines established by the Department of Public Health (DPH). The nutrition guidelines are available at the Department's website: [Executive Order # 509 Guidance](#).

Filing Requirements. ☞ *Required for POS Only. Not applicable to non-POS bidders.* Successful bidders must have filed their Uniform Financial Statements and Independent Auditor's Report (UFR), as required for current contractors, with the Operational Services Division via the Internet using the UFR eFiling application for the most recently completed fiscal year before a contract can be executed and services may begin. Other contractor qualification/risk management reporting requirements and non-filing consequences promulgated by secretariats or departments pursuant to 808 CMR 1.04(3) may also apply. In the event immediate services are required by a department, a contract may be executed and services may begin with the approval of OSD and the appropriate secretariat. However, unless authorized by OSD and the appropriate secretariat, the contractor will not be paid for any such services rendered until the UFR has been filed.

HIPAA: Business Associate Contractual Obligations. Bidders are notified that any department meeting the definition of a Covered Entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) will include in the RFR and resulting contract sufficient language establishing the successful bidder's contractual obligations, if any, that the department will require in order for the department to comply with HIPAA and the privacy and security regulations promulgated thereunder (45 CFR Parts 160, 162, and 164) (the Privacy and Security Rules). For example, if the department determines that the successful bidder is a business associate performing functions or activities involving protected health information, as such terms are used in the Privacy and Security Rules, then the department will include in the RFR and resulting contract a sufficient description of business associate's contractual obligations regarding the privacy and security of the protected health information, as listed in 45 CFR 164.314 and 164.504 (e), including, but not limited to, the bidder's obligation to: implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the protected health information (in whatever form it is maintained or used, including verbal communications); provide individuals access to their records; and strictly limit use and disclosure of the protected health information for only those purposes approved by the department. Further, the department reserves the right to add any requirement during the course of the contract that it determines it must include in the contract in order for the department to comply with the Privacy and Security Rules. Please see other sections of the RFR for any further HIPAA details, if applicable.

Minimum Bid Duration. Bidders responses/bids made in response to this RFR must remain in effect for at least 90 days from the date of bid submission.

Pricing: Price Limitation: The bidder must agree that no other state or public entity customer within the United States of similar size and with similar terms and conditions shall receive a lower price for the same commodity and service during the contract period, unless this same lower price is immediately effective for the Commonwealth. If the Commonwealth believes that it is not receiving this lower price as required by this language, the bidder must agree to provide current or historical pricing offered or negotiated with other state or public entities at any time during the contract period in the absence of proprietary information being part of such contracts.

Prompt Payment Discounts (PPD). All bidders responding to this procurement must agree to offer discounts through participation in the Commonwealth Prompt Payment Discount (PPD) initiative for receiving early and/or on-time payments, unless the bidder can provide compelling proof that it would be unduly burdensome. PPD benefits both contractors and the Commonwealth. Contractors benefit by increased, usable cash flow as a result of fast and efficient payments for commodities or services rendered. Participation in the Electronic Funds Transfer initiative further maximizes the benefits with payments directed to designated accounts, thus eliminating the impact of check clearance policies and traditional mail lead time or delays. The Commonwealth benefits because contractors reduce the cost of products and services through the applied discount. Payments that are processed electronically can be tracked and verified through the Comptroller's Vendor Web system. The PPD form can be found under the Forms and Terms tab of this solicitation.

Bidders must submit agreeable terms for Prompt Payment Discount using the PPD form within their proposal, unless otherwise specified by the PMT. The PMT will review, negotiate or reject the offering as deemed in the best interest of the Commonwealth.

The requirement to use PPD offerings may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in or attached to the PPD form.

Provider Data Management. ☞ *Required for POS Only. Not applicable to non-POS bidders.* The Executive Office of Health and Human Services (EOHHS) has established a Provider Data Management (PDM) business service that is integrated into the Virtual

Gateway. PDM is accessible by providers with current POS contracts. Departments may require that bidders with current POS contracts submit certain RFR-required documents through PDM. These documents have been specified in the RFR. When submitting documents via PDM, bidders are required to print and sign a PDM Documentation Summary. PDM users should verify that all information is accurate and current in PDM. Bidders are required to include the signed PDM Documentation Summary in their RFR response.

Public Records. All responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, M.G.L., c. 66, s. 10, and to c. 4, s. 7, ss. 26. Any statements in submitted responses that are inconsistent with these statutes shall be disregarded.

Reasonable Accommodation. Bidders with disabilities or hardships that seek reasonable accommodation, which may include the receipt of RFR information in an alternative format, must communicate such requests in writing to the contact person. Requests for accommodation will be addressed on a case by case basis. A bidder requesting accommodation must submit a written statement which describes the bidder's disability and the requested accommodation to the contact person for the RFR. The PMT reserves the right to reject unreasonable requests.

Restriction on the Use of the Commonwealth Seal. Bidders and contractors are not allowed to display the Commonwealth of Massachusetts Seal in their bid package or subsequent marketing materials if they are awarded a contract because use of the coat of arms and the Great Seal of the Commonwealth for advertising or commercial purposes is prohibited by law.

Subcontracting Policies. Prior approval of the department is required for any subcontracted service of the contract. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors. Human and social service subcontractors are also required to meet the same state and federal financial and program reporting requirements and are held to the same reimbursable cost standards as contractors.